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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

SHAWN MATTHEW MCCONNELL,

Defendant and Appellant.

2d Crim. No. B272031
(Super. Ct. No. 1441860)
(Santa Barbara County)

Shawn Matthew McConnell appeals an order imposing a one-year misdemeanor parole period pursuant to Penal Code section 1170.18, subdivisions (a)-(d) (“Proposition 47”), and denying credit for time spent on postrelease community supervision (“PRCS”) pursuant to section 3450 et seq.¹ We affirm.

¹ All statutory references are to the Penal Code.

FACTUAL AND PROCEDURAL HISTORY

From September 5, 2014, until May 12, 2015, McConnell served a prison sentence following his conviction of commercial burglary. (§ 459.) After his release from prison, McConnell was placed on PRCS. On April 15, 2016, he filed a petition to have his sentence recalled and to have his felony conviction redesignated as a misdemeanor, pursuant to section 1170.18.

On April 27, 2016, the trial court held a hearing at which McConnell and his attorney appeared. The court reclassified McConnell's conviction as a misdemeanor and terminated McConnell's PRCS term. Over McConnell's objection, the court placed him on one-year supervised misdemeanor parole as authorized by section 1170.18, subdivision (d), and denied him application of excess custody or PRCS credit against the term of misdemeanor parole.

McConnell appeals and contends that the trial court erred by placing him on misdemeanor parole and not awarding credit for his time spent on PRCS.

DISCUSSION

McConnell argues that an individual placed on PRCS is not "currently serving a sentence" within the meaning of section 1170.18, subdivision (a) and thus, cannot be subject to misdemeanor parole. He asserts that he has completed his

sentence and section 1170.18, subdivision (f) applies and no parole period is required.

Section 1170.18, subdivision (a) applies to “[a] person *currently serving* a sentence for a conviction . . . of a felony or felonies who would have been guilty of a misdemeanor under [Proposition 47] . . . had [it] been in effect at the time of the offense . . .” (Italics added.) Such a person may petition to recall his felony sentence and be resentenced to a misdemeanor. (*Id.*, subds. (a) & (b).) The person “shall be subject to parole for one year following completion of his or her [misdemeanor] sentence, unless the court, in its discretion, . . . releases the person from parole.” (*Id.*, subd. (d).)

Section 1170.18, subdivision (f) applies to “[a] person who has *completed* his or her sentence for a conviction . . . of a felony or felonies who would have been guilty of a misdemeanor under [Proposition 47] had [it] been in effect at the time of the offense . . .” (Italics added.) Such a person is entitled to have his felony conviction designated a misdemeanor without serving a period of misdemeanor parole. (*Id.*, subd. (g).)

We reject McConnell’s contentions.

PRCS is similar to parole; it does not change any term of a defendant’s sentence, but merely modifies the agency that will supervise him after his release from prison. (*People v.*

Jones (2014) 231 Cal.App.4th 1257, 1266-1267.) “[P]arole [or PRCS] is a mandatory component of any prison sentence. ‘A sentence resulting in imprisonment in the state prison . . . shall include a period of parole supervision or postrelease community supervision, unless waived’ (§ 3000, subd. (a)(1).) Thus, a prison sentence ‘contemplates a period of parole [or PRCS], which in that respect is related to the sentence.’” (*People v. Nuckles* (2013) 56 Cal.4th 601, 609.)

Section 1170, subdivision (c) provides: “The court shall . . . inform the defendant that *as part of the sentence* after expiration of the term he or she may be on parole . . . or postrelease community supervision” (Italics added.) Here McConnell was on PRCS when the trial court reduced his felony conviction to a misdemeanor and he was still “currently serving” his felony sentence pursuant to section 1170.18, subdivision (a). Accordingly, he was subject to a one-year period of misdemeanor parole pursuant to section 1170.18, subdivision (d).

McConnell is also not entitled to application of any excess custody credit against his one-year misdemeanor parole period. In *People v. Morales* (2016) 63 Cal.4th 399, our Supreme Court held that “credit for time served does not reduce the parole period.” (*Id.* at p. 403 [Morales had completed a prison term and was on PRCS when he filed his

resentencing petition].) For the reasons stated in *Morales*, it also follows that time spent on PRCS does not reduce the parole period.

The order is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

TANGEMAN, J.

Patricia Kelly, Judge

Superior Court County of Santa Barbara

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